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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,858	02/20/2004	Morihiro Okamoto	040069	1643
23850 7590 03/14/2007 ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			EXAMINER PSITOS, ARISTOTELIS M	
			ART UNIT 2627	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/781,858	Applicant(s) OKAMOTO, MORIHIRO	
	Examiner Aristotelis M. Psitos	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 10, 12, 14, 15, 17-19, 21, 22, 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11, 16, 20 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's response of 12/29/06 has been considered with the following results.

Claims 4-8,10,12,14-15,17-19,21,22,24-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/29/06.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The filed information disclosure statements have been reviewed and made of record.

Although the document cited in the 1/11/07 IDS is NOT PRIOR ART, nevertheless the documents cited therein have been reviewed to the extent discussed. Applicant's citation of such is greatly appreciated.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 13, 20 and 23 are rejected under 35 U.S.C. 101 because it is drawn to a program per se and hence is non statutory – Applicants attention is drawn to the available "interim guidelines" with respect to 101 statutory subject matter available at

--- www.uspto.gov/web/offices/pac/dapp/opta/preognotice/guidelines101 20051026.pdf

The following analysis is made.

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Claim 20 clearly recites a program.

Claim 13 although written in proper format (process/method) it is seeking protection of the processing program in the abstract as evidenced by claim 20. It neither has a practical application by any physical transformation, nor does it produce any useful and tangible result (as presented).

Claim 23 is interpreted as a METHOD CLAIM, i.e., although the claim recites in the first line a "record medium", the remainder of the preamble and the remaining limitations of the claim lead the examiner to conclude that the claim is indeed a METHOD.

As a method it is also attempting to seek patent protect of the processing program in the abstract as evidenced by claim 20. Similarly it fails to have any practical application by any physical transformation, nor does it produce any useful and tangible result.

As far as the claims recite positive statutory limitations, the following rejections are made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,9,11,13,16,20 and 23 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2004-039008.

With respect to claim 1; this claim recites a processing apparatus – which is interpreted as a CPU (computer) inherently having the appropriately claimed " information acquiring unit", "recording-information acquiring unit", information determining unit", and the "information selecting unit". That is the

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computer/cpu has the capability/appropriate internal "units" operable so as to be the above claimed "units".

The ultimate paragraph in claim 1 describes the function of this "unit", such is found in the description of the submitted MAT (machine assisted translation) of JP 2004-039008 starting at paragraph 41. Hardware elements are described starting in paragraph 28.

The limitations of claims 2-3 are also found in the MAT thereof, starting at paragraphs 5-23, see also paragraphs 28-40.

With respect to claim 9, since the system can note/distinguish between a single and multimode session, this limitation is inherently present.

With respect to claim 11 see again the MAT starting at paragraph 45.

Claim 13 is the method analogous to the above apparatus of claim 1 and is met when the above system operates.

With respect to claim 16, the overall system of the JP document is interpreted as a "player" in that it can play cds. Hence it also must have an output unit, i.e., speakers.

Claims 20 & 23 are interpreted as duplicative, and since the above system operates in response to a set of instructions, these limitations are met.

3. Claims 1-3,9,11,13,16,20 & 23 are rejected under 35 U.S.C. 102(b) as being anticipated by either the "Cactus Data Shield 200" article, or the "Feurio Versions-History: Version 1.64" article submitted by applicant in the IDS of 7/21/04 or alternatively under 35 USC 103 as being obvious thereover.

As cited therein, the Cactus article at pages 7-8 discloses the function described in the ultimate paragraph of claim 1. The remaining "units" recited in the claim are inherently present in the overall system described by this article.

Similarly, the description of the Feurio system – cd-manager as recited on page 1 of the document also meets the above claimed limitation.

With respect to the remaining "units" claimed, since the system is to be used in a playback device, such "units" must be present – i.e., or no playback would be possible.

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With respect to dependent claims 2,3,9 & 11 such limitations are inherently present.

With respect to claim 16, the overall system of these documents are interpreted as a "player" in that they can play cds. Hence it also must have an output unit, i.e., speakers.

Claims 20 & 23 are interpreted as duplicative, and since the above system operates in response to a set of instructions, these limitations are met.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hahn ('730) cited as illustrative of prior art systems in this environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627



AMP